

Remarks

Favorable reconsideration is respectfully requested in light of the following comments. No claim amendments have been made. Consequently, consideration of this After-Final Response is respectfully requested.

Prior to addressing the individual rejections, Applicants wish to address the Examiner's incorrect and evidently evolving interpretation of the primary reference, Sirhan et al. (U.S. Patent No. 5,743,875). In the previous Action, the Examiner asserted that elements 32 and 47 read upon the claimed first tube while elements 33 and the small layer overlying element 47 read upon the claimed second tube. In the previous Amendment, Applicants clearly and distinctly explained why this interpretation of the primary reference is simply incorrect.

At one point in the current Action, the Examiner has repeated this interpretation of the primary reference. However, in addressing Applicants' previous comments, the Examiner has also asserted (see page 14 of the Action) that "While it is true that different cross-hatching is used for element 32 and the overlying element 47, both elements are considered the claimed second tube." This is wrong, for several reasons.

The instant Action is flawed because, at one point, the Examiner has asserted that element 32 is part of the first tube and, at another point within the Action, the Examiner has asserted that element 32 is part of the second tube. Applicants do not believe that element 32 may properly be considered to be both the first tube and the second tube. This confusion would seem to indicate that the Examiner does not understand the cross-hatching, or the meaning thereof, shown in Figure 16 of the primary reference.

Moreover, assuming that "overlying element 47" is meant to refer to the small layer overlying element 47, the Examiner is blatantly incorrect in asserting that this element and element 32 have different cross-hatching, as these elements do indeed have the same cross-hatching. This means that these two elements are in fact the same. The small layer overlying element 47 is in fact part of element 32, despite the Examiner's obviously incorrect assertions to the contrary.

With respect to Applicants' previous comments regarding catheter construction, the Examiner has noted that "regardless of the how the catheter may have been constructed, if the prior art discloses the elements of the device, then the prior art meets the claim." Several points need to be made with respect to this issue.

First, Applicants were not arguing that the claimed catheter was different as a result of how it is made. Rather, Applicants were merely attempting, once again, to help the Examiner understand and correctly interpret the primary reference. Apparently the attempt was unsuccessful. Moreover, the prior art does not, as explained previously, disclose the elements of the claimed device.

As explained previously, cross-hatching patterns are employed in cross-sectional views to indicate that different elements are formed of differing materials, or at least that different elements are in fact different. In reviewing Figure 16, however, one of ordinary skill in the art will recognize that the cited layer overlying element 47 has a cross-hatching pattern that matches the cross-hatching pattern shown in element 32. Thus, the cited layer overlying element 47 is in fact part of element 32.

As shown in Figure 16, it can be seen that the upper portion of element 32 continues distally and forms part of the balloon 37. The lower portion of element 32 forms part of the balloon 37 and continues proximally. It is noted that the cross-hatching is not visible in the lower portion of element 32 proximal of point 45, as a result of slot 44 being formed in both elements 32 and 33. The lower portion of element 32 is interrupted by aperture 42, but continues proximally to form the cited layer overlying element 47, as cited by the Examiner.

Quite simply, Sirhan et al. does not disclose a catheter shaft having a bonding region in which an outer surface of a second tube is bonded to an outer surface of a first tube. Any assertion to the contrary is incorrect. If the Examiner persists in her flawed interpretation of Sirhan et al., perhaps a telephonic interview with the Examiner, her supervisor and the undersigned representative would be useful.

Applicants respectfully traverse the Examiner's rejection of claims 49-56, 61-64, 67, 69, 73, 101-106 and 109 under 35 U.S.C. §103(a) as unpatentable over Sirhan et al. (U.S. Patent No. 5,743,875) in view of Fontiroche et al. (U.S. Patent No. 5,538,510). As described above, Sirhan et al. fail to describe a catheter shaft having a bonding region in which an outer surface of a second tube is bonded to an outer surface of a first tube. As Fontiroche et al. do not remedy this noted shortcoming of Sirhan et al., the cited combination fails to describe every claimed element. Consequently, the *prima facie* obviousness rejection is flawed and should be withdrawn. Favorable reconsideration is respectfully requested.

Applicants respectfully traverse the Examiner's rejection of claims 58, 59, 65 and 71 under 35 U.S.C. §103(a) as unpatentable over Sirhan et al. (U.S. Patent No. 5,743,875) in view of Fontirroche et al. (U.S. Patent No. 5,538,510) and further in view of Berg et al. (U.S. Patent No. 5,792,116). Sirhan et al. and Fontirroche et al. are distinguished above as failing to teach the claimed invention. Berg et al. also fail to remedy the noted shortcomings of Sirhan et al., and thus once again the *prima facie* obviousness rejection is flawed and should be withdrawn. Favorable reconsideration is respectfully requested.

Applicants respectfully traverse the Examiner's rejection of claims 58, 59, 65 and 71 under 35 U.S.C. §103(a) as unpatentable over Sirhan et al. (U.S. Patent No. 5,743,875) in view of Fontirroche et al. (U.S. Patent No. 5,538,510) and further in review of Javier, Jr. (U.S. Patent No. 6,093,177). Sirhan et al. and Fontirroche et al. are distinguished above as failing to teach the claimed invention. Javier, Jr. also fails to remedy the noted shortcomings of Sirhan et al., and thus once again the *prima facie* obviousness rejection is flawed and should be withdrawn. Favorable reconsideration is respectfully requested.

Applicants respectfully traverse the Examiner's rejection of claims 60 and 72 under 35 U.S.C. §103(a) as unpatentable over Sirhan et al. (U.S. Patent No. 5,743,875) in view of Javier, Jr. (U.S. Patent No. 6,093,177) further in view of Fontirroche et al. (U.S. Patent No. 5,538,510) and further in view of Berg et al. (U.S. Patent No. 5,792,116). Each of these secondary references have already been distinguished as failing to remedy the noted shortcomings of Sirhan et al. Favorable reconsideration is respectfully requested.

Applicants respectfully traverse the Examiner's rejection of claims 75-82, 87-90, 93, 95 and 99 under 35 U.S.C. §103(a) as unpatentable over Sirhan et al. (U.S. Patent No. 5,743,875) in view of Fontirroche et al. (U.S. Patent No. 5,538,510) and further in view of Ressemann et al. (U.S. Patent No. 5,571,087). Ressemann et al. fail to remedy the noted shortcomings of Sirhan et al. and Fontirroche et al., and therefore the rejection is flawed and should be withdrawn. Favorable reconsideration is respectfully requested.

Applicants respectfully traverse the Examiner's rejection of claims 83, 94, 96 and 100 under 35 U.S.C. §103(a) as unpatentable over Sirhan et al. (U.S. Patent No. 5,743,875) in view of Fontirroche et al. (U.S. Patent No. 5,538,510) further in view of Ressemann et al. (U.S. Patent No. 5,571,087) and further in view of Berg et al. (U.S. Patent No. 5,792,116). Each of these

secondary references have already been distinguished as failing to remedy the noted shortcomings of Sirhan et al. Favorable reconsideration is respectfully requested.

Applicants respectfully traverse the Examiner's rejection of claims 84, 85, 91 and 97 under 35 U.S.C. §103(a) as unpatentable over Sirhan et al. (U.S. Patent No. 5,743,875) in view of Fontirroche et al. (U.S. Patent No. 5,538,510), further in view of Ressemann et al. (U.S. Patent No. 5,571,087) and further in view of Javier, Jr. (U.S. Patent No. 6,093,177). Each of these secondary references have already been distinguished as failing to remedy the noted shortcomings of Sirhan et al. Favorable reconsideration is respectfully requested.

Applicants respectfully traverse the Examiner's rejection of claims 86, 92 and 98 under 35 U.S.C. § 103(a) as unpatentable over Sirhan et al. (U.S. Patent No. 5,743,875), in view of Ressemann et al. (U.S. Patent No. 5,571,087) further in view of Javier, Jr. (U.S. Patent No. 6,093,177) further in view of Fontirroche et al. (U.S. Patent No. 5,538,510) and further in view of Berg et al. (U.S. Patent No. 5,792,116). Each of these secondary references have already been distinguished as failing to remedy the noted shortcomings of Sirhan et al. Favorable reconsideration is respectfully requested.

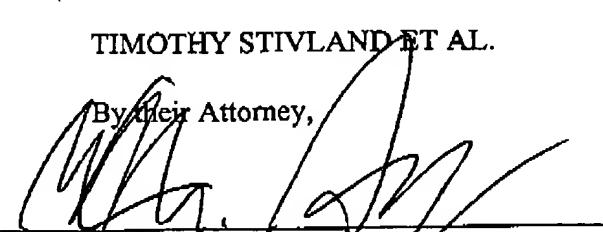
In view of the amendments and arguments presented herein, favorable reconsideration in the form of a Notice of Allowance is respectfully. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,

TIMOTHY STIVLAND ET AL.

By their Attorney,

Date: Jan 3, 2006


Glenn M. Seager, Reg. No. 36,926
CROMPTON, SEAGER & TUFTE, LLC
1221 Nicollet Avenue, Suite 800
Minneapolis, Minnesota 55403-2420
Tel: (612) 677-9050